

PUBLIC CHAPTER NO. 487

HOUSE BILL NO. 240

By Representatives Overbey, Eldridge

Substituted for: Senate Bill No. 1688

By Senators Herron, Kilby

AN ACT to amend Tennessee Code Annotated, Title 63, relative to covenants not to compete signed by health care providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, is amended by adding the following language as a new, appropriately designated section:

63-1-148.

(a) A restriction on the right of an employed or contracted health care provider to practice his or her profession upon termination or conclusion of the employment or contractual relationship shall be deemed reasonable if:

(1) The restriction is set forth in an employment agreement or other written document signed by the health care provider and the employing or contracting entity; and

(2) The duration of the restriction is two (2) years or less and either:

(A) The maximum allowable geographic restriction is the greater of (i) a ten (10) mile radius from the primary practice site of the health care provider while employed or contracted or (ii) the county in which the primary practice of the health care provider while employed or contracted is located; or

(B) There is no geographic restriction but the health care provider is restricted from practicing his or her profession at any facility at which the employing or contracting entity provided services while the health care provider was employed or contracted with the employing or contracting entity. Any restriction under this subsection shall not be

binding on a health care provider who has been employed by, or under contract with, the employing or contracting entity for at least six (6) years.

(b) An agreement entered into in conjunction with the purchase or sale of a health care provider's practice, or all or substantially all of the assets of the health care provider's practice, may restrict such health care provider's right to practice his or her profession, provided that the duration of the restriction and the allowable area of the restriction are reasonable under the circumstances. There shall be a rebuttable presumption that the duration and area of restriction agreed upon by the parties in such an agreement are reasonable.

(c) The provisions of this section shall apply to health care providers licensed under title 63, chapters 3, 4, 5, 6, 8 and 11.

(d) The provisions of this section shall not apply to physicians who specialize in the practice of emergency medicine or radiology.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect January 1, 2008, the public welfare requiring it.

PASSED: June 7, 2007


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 21st day of June 2007



PHIL BREDESEN, GOVERNOR